

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HEATHER KIERNAN,

Plaintiff,

v.

ARMORED MOTOR SERVICES OF
AMERICA, INC. and FRANCISCO
CIAMBRIELLO,

Defendants.

Civil Action No. 10131

**DEFENDANT ARMORED MOTOR SERVICES OF
AMERICA, INC.'S MOTION FOR SUMMARY JUDGMENT**

Defendant Armored Motore Services of America, Inc. ("AMSA") hereby moves for summary judgment on Counts and of the Complaint filed by Plaintiff, Heather Kiernan

As grounds for this Motion, and as set forth more fully in the Memorandum filed herewith, AMSA states that as a matter of law, judgment should enter for AMSA because AMSA cannot be held vicariously liable under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* and M.G.L. c. 151B for a sexually hostile work environment created by a co-worker of the Plaintiff because AMSA because: (1) it neither knew nor should have known about Francesco Ciambriello's alleged sexually inappropriate proclivities prior to the alleged assault; and (2) once it learned of Plaintiff's allegation, AMSA acted promptly and effectively by immediately and permanently removing the alleged harasser from the work place. AS additional grounds for this motion, AMSA states that it can not be held vicariously liable for Francesco Ciambriello's conduct under

Title VII even if Mr. Ciambriello is considered to be Plaintiff's supervisor because AMSA has established the affirmative defense defined in *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998) and *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998).

Respectfully submitted,

ARMORED MOTOR SERVICES OF
AMERICA, INC.,

By its attorneys,

/s/ Allison Romantz
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RULE 7.1(A)(2) CERTIFICATION

I hereby certify that pursuant to Local Rule 7.1(A)(2) that on February 3, 2006, I have conferred with counsel for the plaintiff, William McLeod, Esq., McLeod Law Office, 77 Franklin Street, Boston, MA 02108on, MA 02135 to attempt in good faith to resolve or narrow the issues contained in this motion, but have been unsuccessful in doing so.

/s/ Allison Romantz
Allison K. Romantz

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on February 10, 2006.

/s/ Allison K. Romantz
Allison K. Romantz